G. R. S. App. F. IX-4]

194/ -

File No. 441-41

Previous References.

Law 124-40-1-3 (Courts)

Serial Nos. 1-4.

Later References.

GEN. & REV SECRETARIAT

Serial Nos. Now only

Part B for Feb 43

SUBJECT

Rule of practice re the issuing of a notice to the Advocate General in cases under the Legal practitioners Act

From

The Registrar High Court

No Roc 1159 dt. 28-3-1942

Requests sanction to make a rule
practice, to the effect that in all pr
in the H. Court against a legal
the Registrar shall give n to the
Advocate General.

7) Please put up to Tele, where he
has also worked several times
in such cases, has been fined
£3
6/4/

8) Law Collection 124-40-1-3 is submitted
herewith

Case
11/3

9) The Advocate General,
assisted by Mr. Legal Backwers'
has filed entire Dep. The minimum
prescribed is £50/ as is seen from
the Tele Legal below.

Law Secretary

13/4

No doubt in cases, where the Govt is interested, the Govt Council will be instructed by Govt to appear in the case, & then Govt will have to pay him his fees, but in other cases, where Govt have no interest, the High Court may award fees to the Govt Council & then the Opposite may either pay, as the Court should pay his fees & the Govt fees also? The Rule if amended may bring about complications. It is for others, if the request of the High Court may be negatived

Dear Secretary

3

3/5/42

Serial No.

The object of framing the rule is to require the Advocate-General to appear in all cases under the Legal Practitioners' Act. In the letter dated 27/28th March 1942 received from the High Court, it is stated - "Most of the cases under the Legal Practitioners' Act are domestic matters, in which the Court, the Practitioner, the private complainant (if any) and perhaps the profession are concerned, but not the Government. On the other hand it is always appropriate that the Advocate-General, as the head of the profession, should appear in such cases, though in unimportant ones he may have nothing to urge: in important cases he should be present to assist the Court. Then in the letter dated 20th May 1942, it is stated - "It is presumed that the Government will continue to pay a fee in any case in which the Advocate-General is instructed to appear for the Government. In other cases, so far as the High Court and this rule are concerned, the answer to the question whether the Advocate-General will get any fee and the amount of the fee will depend on the order made in the case as to costs."

Evidently, in all cases in which the Advocate-General appears, fee will be ordered to be paid to him by one of the parties In important cases Counsel are engaged by the parties. If the Advocate-General has to appear as the head of the profession it may not be

5313/84

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 27 March ..... *1942.*
28

FROM

N. SAMAIENGAR, Esq., B.A., LL.B.,
~~T. SHAMIENGAR, Esq., B.A., B.L.,~~
Registrar, High Court of Mysore

To

H. V. NARAYANA RAO, Esq., B.A., LL.B.,
Secretary to Government,
Law Department, Bangalore.

SIR,

I am directed to state that it has been a long standing practice in the High Court to send notice to the Government in all cases under the Legal Practitioners' Act, but this practice appears to be unnecessary and indeed incorrect The Government may be interested in some such cases; but that will generally be when it is the Government who complain. Most of the cases under the Legal Practitioners' Act are domestic matters, in which the Court, the Practitioner, the private complainant (if any) and perhaps the profession are concerned, but not the Government. On the other hand it is always appropriate that the Advocate-General as the head of the profession should appear in such cases, Though in unimportant ones he may have nothing to urge: in important cases he should be present to assist the ~~Government~~ Court. The Judges are of opinion that in all cases notice should be sent to the Advocate-General. He can communicate with the Government and get instructions from them, if they think they are interested.

Rule 17 of the Rules for the conduct of the Legal Affairs of Government provides that the Advocate-General must appear for the Government in Legal Practitioners' cases when specially required to do so, which no doubt refers to cases in which the Government are interested. But that does not make it in any way inappropriate that he should appear in other cases also.

The Judges now propose to make a rule of practice to the following effect:-

"In

* In all proceedings in the High Court against a Legal Practitioner under Chapter II of the Legal Practitioners' Act, 1884, the Registrar shall give notice to the Advocate-General

The High Court has no power to make the rule under the Legal Practitioners' Act; but with the sanction of the Government the High Court can make it under Section 130 of the Code of Civil Procedure.

I am to add that, if the proposed rule is made, no notice need be given to the Government in any case under the Act -- unless for exceptional reasons that is ordered -- as the Advocate-General will always be able to communicate with the Government, if he thinks fit.

I am to request that the Government may be pleased to sanction the making of the above rule by the High Court.

I have the honour to be,

Sir,

Your most obedient servant,

T. Sambasivagam

REGISTRAR.

To

The Registrar

High Court

Sir

With reference to your letter No ROC 1159/41-42 of 28.3.1942 requesting sanction of Govt. to make a rule of practice to the effect that in all proceedings in the High Court against a Legal Practitioner the Registrar shall give notice to the Advocate-General, I am directed to enquire whether the present proposal of the High Court involves the payment of fees to the Advocate-General in every case

in which he is required
to appear under the
proposed rule or such fees
are payable to him in
cases in which he is
specifically directed by
your to appear before
the High Court under Rule 17 of the
for the Conduct of Legal Appeals of Kyv.

I have &c

Hon
Secretary
Kenya

Section Cls

File No. 247-41

Serial No. 4

Proceedings of the Government of
His Highness the Maharaja of Mysore.

Read—

Correspondence ending with letter No Roc 1159/41-42 Dt 20.5.1942 from the Registrar High Court of Mysore requesting sanction to make a rule of practice as set out in the margin

Order thereon—No. P93C Dt 8-8-42.

Sanctioned

6-8-42

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Read:-

Correspondence ending with letter No.ROC.1159/41-42 dated the 20th May 1942 from the Registrar, High Court Mysore requesting sanction to make a rule of practice as set out in the margin.*

*"In all proceedings in the High Court against a legal Practitioner under Chapter II of the Legal Practitioner's Act, 1884, the Registrar shall give notice to the Advocate-General".

O R D E R NO.P 930-Ch 249-41-4

Dated, Bangalore, the 8th August 1942.

S A N C T I O N E D.

Secretary to Government,
Law Department.

The Registrar, High Court of Mysore